IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JAIPUR

BENCH, JAIPUR

ORDER

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S.B. Sales Tax Revision No. 68/2004

M/s Pink City Enterprises, Jaipur

Versus

Assistant Commercial Taxes Officer, Ward-I,
Circle-D, Jaipur

::

Date of order :: August 29, 2007

PRESENT
HON'BLE DR. JUSTICE VINEET KOTHARI

Mr. Nitin Jain for the petitioner-assessee
Mr. Amit Ratnawat on behalf of Mr. R.B. Mathur for the respondent-Revenue

BY THE COURT:

1. Heard learned counsel.

2. This revision petition is directed against the order of the Tax Board dated 19.02.2003, whereby the Tax Board upheld the order passed by the assessing authority cancelling the registration certificate of the assessee under Section 29(7) Read with Rule 24(d) of the RST Act, 1994. The impugned

assessment order dated 23.01.2002 indicates that on a visit by the assessing authority alongwith Inspector on 19.12.2001 to the given address of the assessee at Jai Singh Nagar, Purana Chungi Naka, Delhi Bypass Road, Jaipur, lock was found at the said given address and nobody was present. The notices for assessment were served on two sureties who had signed the application for registration certificate and treating the said service as sufficient service on the assessee, the impugned assessment order was made by the assessing authority raising a total demand of Rs. 64,268/-. The assessee filed its first appeal before the learned Additional Commissioner (Appeals), Jaipur, who partly allowed the said appeal giving adjustment of Rs. 17,293/- paid by the assessee on 31.01.2002. The Tax Board upheld the said order dismissing the second appeal of the assessee. Aggrieved by the same, the assessee has filed this revision petition before this court under Section 86 of the Act.

3. This court had directed the assessee on 07.03.2006 to file

additional affidavit with respect to following two issues :-

> *(i) as to whether the additional place of business/new place of business at which he carried on business has been added in the registration certificate of the assessee dealer or not;*
>
> *(ii) as to whether upon remand to the Assessing Authority vide Annex.2 which has been upheld by the Tax Board vide Annex.3, an order of assessment has been passed by the Assessing Authority for the period in question i.e. 1.4.2001 to 23.1.2002 or not.*

4. The assessee has filed the additional affidavit on 04.08.2007 stating therein that the assessee had taken an additional premises at Plot No. 20, Hanuman Nagar, Jaisilya Raod No. 17, Vishvakarma Industrial Area, Jaipur and information in this regard has been given to the Assessing Officer vide letter dated 29.06.1999 and required fee of Rs. 25/- was also deposited vide challan No. 1/62 dated 24.06.1999. The copies of said letter, challan and rent receipt etc. were placed on record as Annexure-6, 7 and 8 alongwith memo of appeal before the Tax Board. According to learned counsel for the petitioner-assessee, the Tax Board, however,

ignored the said evidence and upheld the cancellation of registration certificate.

5. Learned counsel for Revenue has, however, tried to support the order passed by the lower authorities on the ground that service of notices on the sureties should be treated as sufficient service on assessee. He also submits that the enquiry was made from the landlord of the given address who has stated that the said place was lying closed.

6. Having heard the learned counsel, this court is of the opinion that once the assessee had given the information to the assessing authority and had deposited the requisite fees for information of additional place of business, it was incumbent upon the assessing authority to make an enquiry into the existence of such additional place of business and incorporate the same in the registration certificate. Merely on the basis of a visit made on 19.12.2001 at the other address which was previously given in the application and finding the same locked, the assessing authority could not have proceeded to pass ex parte order. The service on sureties in Registration

Application for the purpose of assessment cannot be said to be sufficient service of notice for assessment upon the assessee. There is is no rebuttal from the side of Revenue to the said additional affidavit that the information was not given to the department nor such requisite fees was paid. These facts being undisputed, the impugned orders are required to be set aside and the matter deserves to be sent back to the assessing authority for holding a *de novo* enquiry into the said additional place of business taken on rent by the petitioner assessee and then pass appropriate order for amendment of Registration Certificate of the assessee.

7. Accordingly, this revision petition is allowed and the impugned orders are set aside. The matter is remanded back to the assessing authority for making a fresh enquiry for passing a fresh assessment order after giving due opportunity of hearing to the assessee.

8. Consequently, this revision petition is allowed with no order as to costs.

(Dr.VINEET KOTHARI),J.

Pramod
Item No. 4